

**REMARKS**

Entry of the foregoing and reconsideration of the application identified in caption as amended, pursuant to and consistent with the Rules of Practice in Patent Cases, and in light of the remarks which follow, is respectfully requested.

By the present amendment, no claims have been amended, so that claims 5 and 24-29 will remain pending upon entry thereof.

The Preliminary Reply and Amendment filed June 13, 2007 and entered in the present application cancelled claims 6-17 and 21-23 rendering moot the Examiner's objection to the recited claim status thereof.

Claims 5 and 24-29 stand provisionally rejected on the ground of obviousness-type double patenting over claims 1-6 of copending Application No. 11/200,488. Accordingly, enclosed herewith is a Terminal Disclaimer which obviates the double patenting rejection. Withdrawal of the record rejection is respectfully requested.

Claims 26-29 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed.

The Examiner considers these claims to be directed to new matter taking the position that particular support is needed when new claims recite species from a generic formula. The Examiner bases this rejection on the finding of only two structures in the specification which contain  $R^2$  as an alkyl residue having 2 carbon atoms when  $r = 1$ ,  $m + n = 3$ ,  $Y = O$  or  $S$ , and  $R^1$  and  $X$  are absent.

Applicants submit that particular support is provided, since current claim 26 is the same as original claim 1 except  $R^2$  is an alkyl residue having 2-20 carbon atoms when  $r = 1$ . Thus, the two compounds identified by the Examiner (the bottom right structure at page 8, and the top middle structure at page 9) are sufficient support for the lower value  $C_2$  of the claimed range.

Moreover, Applicants contend that all compounds having  $R^2$  as an alkyl residue having 2 carbon atoms when  $r = 1$  support claims 26-29, not only just those compounds where additionally  $m + n = 3$ ,  $Y = O$  or  $S$ , and  $R^1$  and  $X$  are absent. Thus, at least two additional compounds satisfy this criteria and further support claims 26-29. Specifically, the compounds set forth on the bottom of page 8, first line of compounds, third compound and third line of compounds, first compound further support claims 26-29, wherein  $R^2$  as an alkyl residue having 2 carbon atoms when  $r = 1$ . Therefore, at least a total of four compounds

adequately support the range of C<sub>2</sub>-20 introduced in claims 26-29. Accordingly, no new matter is presented by claims 26-29.

Further, particular support is provided in the application disclosure. Residue R<sup>2</sup> can be introduced into the compounds of the present invention by use of alcohol R<sup>2</sup>-OH (page 6, lines 9-20 of the specification). This disclosure teaches one of ordinary skill that any suitable alcohol can be used, including ethanol which will result in the formation of compounds wherein R<sup>2</sup> is a C<sub>2</sub>-radical. In this manner, the present application describes the subject matter in such a way as to reasonably convey the invention of claim 26.

Withdrawal of the record rejection under 35 U.S.C. § 112, first paragraph and allowance of claims 26-29 is respectfully requested.

From the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is hereby earnestly solicited.

Respectfully submitted,

Date: October 29, 2007

/Joseph M. Noto/  
Joseph M. Noto  
Registration No. 32,163

NIXON PEABODY LLP  
Clinton Square, P.O. Box 31051  
Rochester, New York 14603  
Telephone: (585) 263-1601  
Facsimile: (585) 263-1600